IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

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CRIMINAL APPEAL NO.716-DB of 2004

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1. Gurdeep Singh Alias Ghugi son of Mohinder Singh;
2. Balwinder Singh alias Binder son of Sohan Lal;
3. Rajinder Kumar alias Kaka son ofGulzari Ram,
4. Tejinder Singh alias Kaka son of Ajaib Singh, residents of Ratainda District Nawan Shahar;
5. Harnek Singh alias Neka son of Lehmber Singh, resident of Village Sunner Khurd. And
6. Sunny Lal Paswan son of Jagasar Lal Paswan, resident of Village Harpur.

Versus

The State of Punjab.

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CORAM: HON'BLE MR.JUSTICE K.S.GAREWAL, AND
HON'BLE MR.JUSTICE R.S.MADAN.

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Present: Mrs.Baljeet Kaur Mann, Advocate, for the appellants.
Shri A.S.Virk, Additional Advocate General, Punjab.

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R.S.Madan, J

This appeal has been directed against the judgment and order dated 13.08.2004 passed by Mrs. Sabina, Additional Sessions Judge, Nawan Shahar, in Sessions Case No. 24 of 2003, whereby she convicted and sentenced the aforesaid six accused, as under:-

1.	Gurdip Singh	302 IPC	Life Imprisonment and fine of Rs.10,000/-. In default to further undergo RI for one year.
		376(g)	Life imprisonment and fine of Rs.10,000/- in default further RI for one year.
		506 IPC	RI for 5 years and to pay fine of Rs.5000/- or in default further RI for six months.
2.	Rajinder Kumar	302 IPC	Life imprisonment and to pay a fine of Rs.10,000/- or in default further RI for one year.
		302 IPC	Life imprisonment and to pay a fine of Rs.10,000/- or in default further RI for one year.
		376(g) IPC	Life imprisonment and fine of Rs.10,000/- or in default, further RI for one year.
		404 IPC	RI for one year and to pay a fine of Rs.1000/-

			or in default, RI for one month.
3.	Harnek Singh alias Neka	302 IPC	Life Imprisonment and fine of Rs.10,000/-. In default to further undergo RI for one year.
		376(g) IPC	Life Imprisonment and fine of Rs.10,000/-. In default to further undergo RI for one year.
		404 IPC	RI for one year and to pay a fine of Rs.10,000/-. In default to further undergo RI for one month.
4.	Balwinder Singh alias Binder	302 IPC	Life Imprisonment and fine of Rs.10,000/-. In default to further undergo RI for one year.
		376(g)IPC	Life Imprisonment and fine of Rs.10,000/-. In default to further undergo RI for one year.
		404 IPC	RI for one year and to pay a fine of Rs. 1000/- or in default further RI for one year.
5.	Sunny Lal Paswan	302 IPC	Life Imprisonment and fine of Rs.10,000/-. In default to further undergo RI for one year.
		376(g) IPC	Life Imprisonment and fine of Rs.10,000/-. In default to further undergo RI for one year.
		404 IPC	RI for one year and to pay a fine of Rs.1000/- or in default further RI for one month.
6.	Tejinder Singh	201 IPC	RI for 7 years and to pay a fine of Rs. 5000/- or in default further RI for six months.

All the sentences of imprisonment were ordered to run concurrently. However, the accused were acquitted of the charges framed under Sections 3 and 4 ofthe Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989.

2. In brief, the facts of the prosecution case are that on 25.5.2000 Paramjit Singh, SI/SHO of Police Station, Mukandpur was present at Canal Bridge, Shehanshan Mukandpur, in connection with patrol duty along with ASI Avtar Singh, CI Amarjit Singh, Constable Kulwinder Singh, C.Surjit Singh where Nago Ram son of

Munshi Ram, caste Ad-dharmi resident of Village Retainda, suffered a statement, wherein he stated that he is a resident of Village Retainda and is a labourer. His real nephew Bhajan Ram son of Jagga Ram and his sons Kesar and Roopa have gone to Dubai. Seeso wife of Bhajan Ram, aged about 45 years and her daughter Kamlesh and son Basanta aged about 12/13 years are residing at Village Terainda. It was on 24.5.2000, as usual Seeso wife of Bhajan Ram at about 9 AM carrying sickle (Datri) and Jute cloth (Palli) had gone to bring fodder from the land of Brig. Gurcharan Singh of the same village, which land has now been purchased by a resident of Bara Pind and in that land sugarcane crop has been sown. When she did not return till afternoon, he and his other family members and the residents of the village started making search of her but no information could be gathered. It was on 25.02.2000 at about 8 AM in the morning when he along with other members of the family and the residents of the village were searching for Seeso in the sugarcane fields of Bara Pind, from a section of the sugarcane field, which was being irrigated by Tubewell, a fresh pit was found having dug and filled back with earth. Then he and other people of the village put aside the soil of the pit and saw that in that pit the dead body of Seeso was lying buried covered with palli and on seeing the dead body it was found that the gold ear rings, silver bangles worn in hands and the anklets in the feet were missing. The complainant alleged that Sunny Lal Paswan and ¾ other persons of Bara Pind, after committing the murder of Seeso, have buried her dead body. After leaving behind Ram Asra Panch and one Piare Lal son of Mehga Ram, residents of Village at the spot to safeguard the dead body, he was going to the police station to lodge the first information report when the police party met him.

3. On the basis of this information, offence under Section 302, 404, 201 read with Section 34 of the Indian Penal Code was made out. A ruqa was sent to the police station through constable Surjit Singh, whereupon formal first information Report was registered by Paramjit Singh MHC.

4. Upon the registration of a case, the police party headed by Paramjit

Singh SI/SHO along with the police party and the complainant proceeded towards Village Retainda and reached in the fields of Jasbir Singh where they found that the sugarcane field was being watered. The dead body of a female was lying in the field which lateron was identified that of Seeso resident of Retainda. Constable Palwinder Singh also reached at the spot along with the doctors and the Executive Magistrate. The place of occurrence was got photographed from Baljit Singh,Photographer. The dead body of Seeso was got lifted from the fields in the presence of panel of doctors and the Executive Magistrate and the same was taken into police possession vide memo Ex.PH, attested by the doctors and the Executive Magistrate. A palli, a pair of chapels and Detari with wooden handle with were lying near the dead body, were also taken into possession after making them into separate sealed parcel , vide memo Ex.PX and PY attested by ASI Avtar Singh and Ram Asra. The Sub Inspector inspected the spot, took into possession earth stained with blood as well as simple earth in the presence of panel of doctors and the Executive Magistrate, attested by the witness. He dispatched the dead body for post mortem examination through ASI Avtar Singh and constable Amarjit Singh. The post mortem examination was conducted by Board of Doctors consisting of PW-1 Dr.J.P.S.Cheema, Medical Officer, Civil Hospital Banga, Dr.Dharam Pal, Dr.Subhash Chander and Dr.Kamaljit Singh. The Board was headed by Dr.J.P.S.Cheema, PW-1 and he noticed the following injuries on the dead body of Seeso:-

1. Incised wound 14 x 3 cm x 5 cm deep on the left side of face and deck, horizontally placed on the lateral aspect of face and neck, anterior and was 8 cm from mid-line of face and 7 cm below the left eye brow, clots were present in the vicinity of the wound. In the vicinity of the wound mendible was fractured. The internal juglar vei8n and external carotid artery were cut. Retraction of edges of the wound were seen.

2. Incised wound 2 x 0.5 x 0.5 cm horizontal on the right upper lip, near the angle of the mouth, clots were present in the wound and the edges were retracted.

3. Reddish blue contusion 4 x 4 cm on the right side of face, 1 cm below the lower lip and 2 cm from the mid-line of face. There was laceration of the size 2 x 1 x 0.5 cm on the inner surface of the right lower lip, corresponding to it. The mendible was fractured vertically, 3 cm from the mid-line.

4. Incised wound 4 x 1.5 cm x 4 cm horizontal on the front of neck, in the mid-line, 7 cm above the supra sternal notch, edges were retracted, underneath trachea was cut, just below the cricoid cartilege, horizontally, blood clots were present in the trachea.

5. Incised wound 3 x 1.5 x 1 cm horizontal on the front of back, in the mid-line, 5 cm above the external notch, edges were retracted.

6. Reddish blue contusion 11 x 11 cm on the top of the left shoulder.

7. Incised wound 2 x 0.5 cm x 1 cm vertical on the web between left index and middle fingers, edges were retracted.

8. There was no external mark of injury, labia, majora and minor were healthy. No blood or discharge, slides 1 & 3 were prepared from the introitis. Swabs 5 and 7 were prepared .Per speculum examination showed no mark of injury on the vagina, cervix was normal and were sent to the Chemical Examiner, Patiala for semen analysis.

6. The cause of death as per the opinion of the doctors was shock and hemorrhage due to injury No.1 which was on the face and neck and was sufficient to

cause death in the ordinary course of nature. All the injuries as per the report of the doctor were ante mortem in nature. After the post mortem examination, a copy of the MLR along with other belongings taken out from the dead body of Seeso were handed over to constable Amarjit Singh, along with sample seal and a letter addressed to the Chemical Examiner, Punjab, Patiala. The board of doctors also opined that prior to the death of Seesho, she was subjected to sexual intercourse. Thereafter, on 26.05.2000 the SI/SHO recorded the statement of Niranjan Ram and thus offences under Sections 376/506/148/149 of the Indian Penal Code , were added. He also recorded the statement of Chet Ram. On 27.5.2000 Baljit Singh photographer produced before him the negatives and their positives enlargements and the CD which were taken into possession vide memo Ex.PBB, attested by Surjit Singh and Avtar Singh. On 12.6.2000 when the investigating officer was present in Village Retainda along with other police officials, Bhupinder Singh Sarpanch met him and produced before him accused Gurdip Singh, Harnek Singh and Sunny Paswan, who were arrested. On the same day accused Tejinder Singh alias Tara, Balwinder Singh alias Binder and Rajinder Kumar were also produced by Avtar Singh PW and they were arrested in the case. On 15.6.2000 the SI/SHO in the presence of HC Sucha Singh and ASI Avtar Singh interrogated accused Gurdip Singh in the police station who disclosed that he had kept concealed one Kahi in the room meant for storing chaff and could get the same recovered. His disclosure statement Ex.PDD was reduced into writing which was signed and attested by the witnesses. Thereafter accused Harnek Singh was interrogated and he disclosed that he had kept concealed four silver bangles in the house of his co-accused Gurdip Singh, underneath the iron trunk of which only he had the knowledge and could get the same recovered. His disclosure statement Ex.PEE was recorded and signed/ attested by the witnesses. Accused Balwinder Kumar on interrogation also disclosed that he had kept concealed one silver Pajeb (anklet) underneath the iron trunk in his residential house of which he had the knowledge and could get the same recovered. His disclosure statement

was also reduced into writing and signed/attested by the witnesses. Accused Rajinder Kumar also on interrogation disclosed that he had kept concealed Silver Pajeb (Anklet) in his residential house underneath the iron trunk which he could get the same recovered. His disclosure statement Ex.PGG was also reduced into writing and was signed/attested by the witnesses. Accused Sunny on interrogation disclosed that he had kept concealed one pair of gold ear rings in the room meant for electric motor tubewell in the fields of Jasbir Singh, of which he only had the knowledge and could get the same recovered. His disclosure statement Ex.PHH was reduced into writing and signed/attested by the witnesses. In pursuance to their disclosure statements, all the accused led the police party to the pointed place and got recovered the articles as per their disclosure statements, which after making into sealed parcels, were taking into police possession vide recovery memos prepared at the spot and attested by the witnesses.

7. It is pertinent to mention here that all the six accused were also challaned under Sections 3 and 4 of the Prevention of Scheduled Caste and Schedule Tribes, Atrocities Act, 1989.

8. After the completion of all the formalities, challan against the accused was presented under Sections 302, 376, 506, 404, 148/149 of the Indian Penal Code and also under Sections 3 and 4 of the Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, in the Court, who committed the case to the court of Sessions.

9. On appearance of the accused in the court of Additional Sessions Judge, Nawan Shahar, who after going through the report under Section 173 of the Code of Criminal Procedure, the statements of the witnesses recorded under Section 161 Cr.P.C. and the documents placed on the record by the prosecution, prima facie found the accused having committed the offence punishable under Sections 148, 302/149, 376(g), 506, 201, 404 of the Indian Penal Code and under Section 3 of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 to which

they pleaded not guilty and claimed trial.

10. The prosecution in all examined 15 witnesses.

11. PW-1 Dr.J.P.Sema, Medical Officer, Civil Hospital, Banga whose statement has already been discussed in the earlier part of the judgment, while describing the facts of the case of the prosecution. In the cross examination, the testimony of this witness could not be shattered by the learned counsel for the appellants.

12. PW-2 Paramjit Singh is a formal witness. He tendered into evidence his affidavit Ex.PJ.

13. PW-3 Amarjit Singh is also a formal witness. He deposed that on 1.6.2000 he took two sealed parcel duly sealed with the seal of the doctor and delivered the same in the office of Chemical Examiner, without tampering with the seal.

14. PW-4 Piare Lal is a witness to the inquest report Ex.PC and identified the dead body of Seeso wife of Bhajan Lal, at the time of post mortem examination.

15. PW-5 is Gurwinder Singh, Patwari who prepared the site plan Ex.PK after visiting the spot on 25.5.2000, correctly on the demarcation of Nagu Ram, with correct marginal notes which are in his hands.

16. PW-6 Nago Ram, complainant, reiterated the statement which he had suffered before the SI/SHO of Police Station, Mukandpur.

17. PW-7 Bhupinder Singh deposed that he was Sarpanch of Village Retainda. On 25.5.2000 he had gone to the fields of Kashmir Singh from where the dead body of Seeso was recovered from the sugarcane fields, covered with a palli and buried underneath the earth. At that time Satnam, Singh, Tehsildar, some doctors, police officials and a movie maker was present there. Recovery memo Ex.PH was prepared which the witness had signed. The witness further deposed that on 28.5.2000 accused Gurdeep Singh, Harnek Singh and Sunny Lal Paswan came to his house and disclosed that on 24.5.2000 Seesho deceased had come to take water

from the tubewell and that they all the three along with Balwinder Singh and Rajinder Singh had committed rape upon Seeso. Thereafter a struggle had taken place at the spot whereupon Gurdeep Singh accused had given a spade blow on the neck of Seeso as a result of which Seeso had died. They all had buried the dead body of Seeso in the sugarcane field.

18. PW-8 Chet Ram deposed that Seeso was her sister-in-law. He deposed that he saw Gurdeep Singh, Harnek Singh, Balwinder Singh, Rajinder Kumar, Tejinder Singh and Sunny Paswan accused carrying some heavy material in a palli and they had placed the same in the sugarcane field. Tejinder Singh accused dug a pit in the field with the help of a spade and buried the material underneath the earth. At his asking as to what they had done, accused Gurdip Singh told that he will also be treated in the same manner and uttered the words “Kutia Chamara tera bhi iho hal karange”. Thereafter accused Gurdip Singh, with a kahi in his hand, ran towards him and out of fear, he ran towards the village.

19. PW-9 Niranjan Ram deposed that on 24.5.2000 at about 10.30 AM, in order to ease himself, he had gone towards the eastern side of the Village where a fair was being held. In order to get my hands washed had gone to the tubewell motor, where he heard some shrieks, and found that Seeso wife of Bhajan Ram was lying on the ground and accused Gurdeep Singh was holding her arms, accused Balwinder Kumar and Rajinder Kumar had lifted the legs of Seeso upwards and accused Gurnek Singh was committing rape upon her. Accused Sunny Lal and Harnek were holding the arms of Seeso. Thereafter accused Gurdeep Singh gave a kassi blow on the neck of Seeso. On seeing this, he started shreaking. On seeing Niranjan Ram PW-9 accused Gurdeep Singh chased him with a kassi in his hand and threatened him that in case he disclosed this incident to any one in the village, he and his family will be dealt with in the same manner. Because of threat having been exhibited by Gurdip Singh, out of feat he did not disclose this incident to any one in the village.

20. PW-10 Krishna wife of Mohan Lal deposed that on 24.5.2000 at about 8

AM she along with Nimmo had gone to take fodder from the fields. At about 9 AM when they were coming back, they found that Sunny Lal was watering the fields. In the meantime Seeso deceased also entered into the fields having a jute cloth in her hands. After they had covered some paces, accused Binder and Kaka sons of Gulzari were seeing going towards the tubewell. Accused Gurdip Singh, Harnek were also seen going on the scooter towards the tubewell side.

21. PW-11 Piare Lal son of Swarna Ram deposed that on 15.6.2000 he joined the police party headed by SI Paramjit Singh and other police officials. Gurdip Singh, Harnek Singh, Balwinder Kumar, Rajinder Kumar and Sunny Paswan accused who were in custody when interrogated, thereafter they led the police party to the pointed place, and got recovered the spade, gold and silver ornaments and the same were taken into possession by the police through various recovery memos attested by this PW.

22. PW-12 constable Bal Kishan deposed that on 4.8.2000 while he was posted in Police Station Mukandpur, MHC of the police station had handed over to him a sealed parcel containing blood stained earth duly sealed with the seal PS along with the specimen seal and a docket for onward delivery in the office of Forensic Science Laboratory, Chandigarh which he had handed over with seals intact on the same day.

23. PW-13 Bal Krishan is also a formal witness. He also delivered one parcel bearing seals PS in the office of FSL, Chandigarh with seals intact and the receipt of the same was handed over to the MHC on return to the police station.

24. PW-14 Jasbir Singh, is the Medical Officer, who on 26.8.2000 was on Emergency Duty in the Civil Hospital at, Ludhiana. On that day SI/SHO produced before him an order passed by the Judicial Magistrate, Nawan Shahar with respect of conducting the medico legal examinations on the persons of Harnek Singh, Rajinder Kumar, Balwinder Kumar, Gurdeep Singh and Sunny Paswan regarding their fitness for performing sexual intercourse. After examining all the above named person, the

doctor opined that there was nothing to suggest that they were not capable of performing sexual intercourse. He proved the carbon copies of his opinion Ex.PV, PV/1 to PV/4.

25. PW-15 SI Paramjit Singh is the investigating officer of this case and his statement has already been discussed in the earlier part of this judgment.

26. After the evidence of the prosecution was closed, as envisaged under Section 313 of the Code of Criminal Procedure, the statements of the accused were recorded wherein all the incriminating evidence appearing in the prosecution evidence against the accused, was put to them to which they pleaded as under:-

Gurdeep Singh accused:

"I am innocent. I was detained by the police along with many others for number of days on unfounded suspicion and was subsequently involved in this case, due to party faction on account of Panchayat elections in the village".

Balwinder Singh accused:

"I am innocent. I was detained by the police along with many others for many days, before my formal arrest was shown. I and my cousin Rajinder Kumar alias Kaka have been falsely involved as my grand-father's brother Sansar Chand appeared in a case under Section 326 IPC against Nago Ram and his brother Meeta and both of them were convicted and the conviction was upheld in appeal as well. Dharma fieled a civil suit against Meeta brother of Nago Ram PW in which case, Sansar Chand again appeared and the suit was declared in favour of Dharma against Meeta Ram. Sansar Chand is living with my father and they are joint in mess.

Rajinder Kumar accused.

" I am innocent. I was detained by the police along with many others for many days, before my formal arrest was shown. I and my cousin Balwinder Singh alias Binder have been falsely involved as my grand-father's brother, Sansar Chand, appeared in a case under Section 326 IPC against Nago Ram and his brother Meeta and both of them were convicted and the conviction was upheld in appeal as well.

Dharma filed a Civil Suit against Meeta brother of Nago Ram PW in which case, Sansar Chand again appeared and the suit was decreed in favour of Dharma against Meeta Ram. Sansar Chand is living with my father and they are joint in mess.

Harnek Singh accused.

" I am innocent. I was detained by the police along with many others for number of days on unfounded suspicion and was subsequently involved in this case, due to party faction on account of panchayat elections in the village".

Sunny Lal Paswan accused.

"" I am innocent. I was detained by the police along with many others for number of days on unfounded suspicion and was subsequently involved in this case, due to party faction on account of panchayat elections in the village".

Tejinder Singh accused.

"I am innocent. My father was earlier Sarpanch of the village and there was litigation with Bhupinder Pal Singh present Sarpanch and I was involved at the instance of Bhupinder Pal Singh".

27. All the accused did not lead any evidence in defence.

28. After hearing the learned counsel for the parties and going through the record, the learned Additional Sessions Judge, convicted and sentenced the accused as already indicated above.

29. We have heard the learned counsel Mrs. Baljeet Kaur Mann, Advocate, for the appellants, Shri A.S.Virk, Additional Advocate General, Punjab and have gone through the record and other material available on the file carefully.

30. Before appreciating the arguments advanced by the learned counsel for the parties, it is pertinent to pursue the pedigree-table inter se relation of the witnesses is reproduced as under:-

Opening the arguments, Mrs. Baljit Kaur Mann, learned counsel for the appellants submitted that the case of the prosecution rests on the statements of the

witnesses who are related to the deceased and they were interested in the success of the case. The plea set up by the accused is that due to Panchayat Elections there was party faction and the witnesses belonged to one party of Bhupinder Pal Singh PW whereas the accused belonged to the party of defeated candidate. Therefore, they had the motive to implicate them falsely in this case. She further submitted that the testimony of Naranjan PW9 who suffered statement before the police on 26.05.2000 was very much present at the spot when the dead body was recovered from the sugarcane fields on 25.05.2000 but he remained silent at the spot and did not disclosure to the police about the alleged occurrence which he had witnessed on 24.05.2000 when he saw all the accused committing rape on the person of Seeso and thereafter they killed her with kahi. Naranjan Singh is the son of Parkash Ram son of Ishwar. The conduct of this witness in watching the police proceedings as a silent spectator raises a doubt that he is an imported witness in this case. Therefore, his testimony with respect of his having witnessed the occurrence is not believable.

So far as the testimony of Krishan PW-10 is concerned, she was also present when the police arrived at the spot on 25.05.2000. She never states anything to the police. Therefore, her testimony could not o be taken into consideration.

The arguments of the learned counsel for the appellants appears to be very attractive but loses significance for the reason that at the time when the police has arrived at the spot accused Gurdeep along with other accused was present at the spot. It has also come in the testimony of PW-9 that when he had witnessed the occurrence, he was threatened by Gurdeep Singh accused, who followed him upto a distance by proclaiming that if he discloses this fact to any one in the Village then he along with his family members would also be murdered in the same manner. It was on account of this threat exhibited by Gurdeep Singh accused, that Naranjan Singh kept silent even in the presence of the police when the spot proceedings were in progress near the dead body of Seeso.

So far as the testimony of PW-10 Krishana is concerned, she has also

stated that she saw some of the accused moving towards the tubewell on scooter and some of them on foot. Therefore, her testimony is only a linked testimony and not beyond that.

So far as the testimony of PW-6 Nago Ram is concerned, he simply stated to the SI/SHO to the effect that he has found the dead body of Seeso at the spot. He was on his way to the police station but he met SI/SHO on the way and got his statement Ex.PM recorded. Now coming to the testimony of Bhupinder Pal Singh, Sarpanch, PW-7 before whom the accused Gurdeep Singh, Harnek and Sunny had suffered an extra judicial confession about their having killed Seeso, PW-7 has categorically stated that on 28.05.2000 at about 6 P.M. accused Gurdeep Singh, Harnek Singh and Sunny Lal Paswan came to his house and disclosed about their involvement in committing rape upon Seeso along with accused Balwinder Singh, Rajinder Singh at the tubewell and thereafter on resistance of Smt.Seeso they killed and buried her dead body in the sugarcane fields. It is not disputed that Bhupinder Pal Singh was Sarpanch of the Village at the relevant time and he had links with the police and in order to save them from the atrocities of the police, these accused sought his help. Therefore, the testimony of PW-7 Bhupinder Pal Singh is also trust-worthy.

PW Chet Ram only saw the accused carrying some heavy material in a palli and he noticed that the palli contained the dead body of Seeso, her sister-in-law. He too was warned by accused Gurdeep Singh. This witness was also under a constant threat extended by the accused. It was on this account that his statement was recorded on 26.05.2000 by the police. Therefore, the submission of the learned counsel for the appellants that the witnesses are related to each other. Thus their testimony is to be discarded as a whole being relation of the decease, is not sustainable.

Another contention of the learned counsel was that the manner in which

the disclosure statements of the various accused led to the recoveries of various articles of the deceased, are also not believable. Therefore, these recoveries cannot be taken to be recoveries as the out-come of the disclosure statements made by the accused to the investigating officer. We do not find any force in the contention of the learned counsel for the appellants. There is a clear cut statement of the investigating officer who interrogated all the accused and on the basis of their disclosure statements the police party was led to the pointed place and where they got recovered silver and gold ornaments and those were taken into possession by various memos prepared by the police attested by P.Ws.

At the end the learned counsel for the appellants submitted that so far as the accused having suffered extra judicial confession before PW-7 Bhupinder Singh, Sarpanch of the Village on 28.05.2000 and his further reporting the matter to the police on 12.06.2000 by producing the accused-appellants before the police, does not inspire confidence and this part of the prosecution case can be termed as an act of padding by the police. The argument of the learned counsel for the appellants is also not helpful to the accused-appellants because after the extra judicial confession before PW-7 Bhupinder Singh, he had gone out of the village in connection with some business and had gone to Banga and Phagwara and on return to the village on 12.06.2000, he produced the accused before the police. Therefore, this fact stands explained by PW-7 Bhupinder Singh Sarpanch for not producing the accused from 28.5.2000 to 12.6.2000.

On the other hand, the learned Additional Advocate General, Punjab contended that the prosecution has been able to prove its case against all the accused beyond all shadow of doubts. The evidence of the witnesses cannot be thrown out for the simple reason that they are related to each other. The witness would not name any wrong persons as authors of the crime because they have no ill-will against the accused and they must be interested that the real culprits must be booked for having committed the crime.

The learned Additional Advocate General further contended that the prosecution has been fully able to prove the recoveries of silver and gold ornaments, kahi etc. from the possession of the accused after they had suffered disclosure statements before the investigating officer and led the police party to the disclosed place. The ornaments having been recovered from the possession of the accused further suggests that they have not only brutally committed the crime but have also distributed the booty after the commission of the crime between themselves. The prosecution has also been able to prove that all the accused suffered disclosure statements before PW-7 Bhupinder Pal Singh, Sarpanch of the Village and he produced them before the police on 12.06.2000.

At the end, the learned Additional Advocate General, Punjab, submitted that the case of the prosecution is fully proved from the testimony of the prosecution witnesses and the accused have been rightly convicted and sentenced by the learned Additional Sessions Judge, Nawan Shahar.

No other point was urged or argued by the learned counsel for the parties.

After considering the submissions of the learned counsel for the parties, we are of the view that the manner in which the accused after committing rape upon Seeso, murdered her and tried to destroy her body so as to save themselves from legal punishment is nothing but a ghostly and brutal act committed by all the accused and thus they do not deserve any leniency in the matter of sentence. The learned Sessions Judge has appreciated the evidence of the prosecution in right perspective and we do not dis-agree with her observation in convicting and sentencing the accused as mentioned above. Accordingly, we do not find any force in this appeal and the same is hereby dismissed.

(R.S.MADAN)
JUDGE

(K.S.GAREWAL)
JUDGE

June 05, 2006.

MALIK